

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING
Rule I pertaining to determining	)	ON PROPOSED ADOPTION
unenforceable case status in child	)	
support cases	)	

TO: All Interested Persons

1. On December 13, 2006, at 1:30 p.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed adoption of the above-stated rule.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on December 4, 2006, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

2. The rule as proposed to be adopted provides as follows:

RULE I DETERMINING UNENFORCEABLE CASE STATUS (1) This rule establishes the criteria which a IV-D case must satisfy to be categorized as unenforceable. All of the following criteria must be met:

- (a) no payments have been posted to the case in the last 12 months, and payments are not expected to be posted in the immediate future;
- (b) no payments from the federal offset program have been received during the past two years;
- (c) no payments from the state offset program have been received during the past two years;
- (d) if payments have been made in the past two years, collected by methods other than federal or state offset, those payments do not exceed \$1,000.00;
- (e) the CSED has not identified any attachable financial institution accounts belonging to the obligor parent;
- (f) the CSED has not identified any executable assets belonging to the noncustodial parent;
- (g) a credit bureau report accessed within the past six months indicates that income or asset information is unavailable; and
- (h) in a case involving Title IV-E funds, all of the children of the case have been emancipated, or parental rights of the noncustodial parent have been terminated.

AUTH: 40-5-203, MCA  
IMP: 40-5-203, MCA

3. The proposed New Rule I is necessary to establish the criteria in categorizing a case as unenforceable. If a case is unenforceable, it may be closed under federal case closure criteria defined in 45 CFR 303.11.

The proposed new rule is necessary in order to provide criteria to determine that a case is unenforceable. 45 CFR 303.11 provides that a IV-D case qualifies for closure when support action is precluded or collection potential is limited as defined by closure criteria contained in 45 CFR 303.11. Because of the necessity to have criteria to determine that a case is unenforceable, there are no viable alternatives to adding this new rule.

The number of persons affected by the new rule is difficult to quantify. However, in Federal Fiscal Year 2006, the CSED reported a total of 11,833 cases in arrears with no collections made. In theory, these could all be reviewed for "unenforceability" under the proposed rules. However, how many of these will ultimately result in meeting the rule requirements for case closure is unknown. There will be little or no cost to close the cases under the new rule and because the CSED would no longer be required to keep unenforceable cases open there may be cost savings to the department.

It is not possible to determine a cumulative fiscal impact this new rule will have upon those affected by the changes because each case will depend on individual circumstances that cannot be predicted by CSED. At the time of closure under the new rule, collections for unenforceable child support are not possible and not likely in the future. It is believed that there will be no financial impact on parents by the case closure as a result.

While conceivably a parent could hire an attorney or private collection agency to try to enforce the child support order, it is improbable that any private attorney or collection agency would successfully collect child support from a case closed under the proposed new rule. The department considered this factor in its decision process. Should facts in an individual's case change in the future where the case would become enforceable, the individual can apply to the department to re-open the case file.

4. Interested persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on December 21, 2006. Data, views, or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@mt.gov. The department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or

programs of interest. For placement on the mailing list, please write the person at the address above.

5. The Office of Legal Affairs, Department of Public Health and Human Services has been designated to preside over and conduct the hearing.

/s/ John Koch for  
Rule Reviewer

/s/ Russell Cater for  
Director, Public Health and  
Human Services

Certified to the Secretary of State November 13, 2006.